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Board of Vocational Nursing  
and Psychiatric Technicians

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**BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. PT-2008-2883

**DEOGRACIAS L. CASTENEDA**  
**1437 Blackstone Avenue**  
**San Jose, CA 95118**

**A C C U S A T I O N**

**Psychiatric Technician License No. PT 29485**

Respondent.

Complainant alleges:

**PARTIES**

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant), brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs.

2. On or about July 6, 1995, the Board issued Psychiatric Technician License Number PT 29485 to Deogracias L. Casteneda (Respondent). The license was in full force and effect at all times relevant to the charges brought herein; it will expire on March 31, 2013, unless renewed.

**JURISDICTION**

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Code section 4520 provides, in pertinent part, that the Board may discipline any licensed psychiatric technician for any reason provided in Article 3 (commencing with section 4520) of the Psychiatric Technicians Law (Code § 4500, et. seq.).

5. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under Code section 4545, the Board may renew an expired license at any time within four years after the expiration.

## STATUTORY PROVISIONS

6. Code section 4521 states, in pertinent part:

“The board may suspend or revoke a license issued under this chapter [the Psychiatric Technicians Law (Bus. & Prof Code, § 4500 et seq.)] for any of the following reasons:

“(a) Unprofessional conduct, which includes, but is not limited to, any of the following:

“(1) Incompetence or gross negligence in carrying out usual psychiatric technician functions.”

7. California Code of Regulations, title 16, section 2577, states:

“As set forth in Section 4521 of the code, gross negligence is deemed unprofessional conduct and is grounds for disciplinary action. As used in Section 4521 ‘gross negligence’ means a substantial departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent licensed psychiatric technician, and which has or could have resulted in harm to the consumer. An exercise of so slight a degree of care as to justify the belief that there was a conscious disregard or indifference for the health, safety, or welfare of the consumer shall be considered a substantial departure from the above standard care.”

8. California Code of Regulations, title 16, section 2577.1, states:

“As set forth in Section 4521 of the code, incompetence is deemed unprofessional conduct and is grounds for disciplinary action. As used in Section 4521, ‘incompetence’ means the lack of possession of and the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by responsible licensed psychiatric technicians.”

1           9.     California Code of Regulations, title 16, section 2576.5 states:

2           “The licensed psychiatric technician performs services requiring technical and manual skills  
3 which include the following:

4           “(a) Uses and practices basic assessment (data collection), participates in planning, executes  
5 interventions in accordance with the care plan or treatment plan, and contributes to evaluation of  
6 individualized interventions related to the care plan or treatment plan.

7           “(b) Provides direct patient/client care by which the licensee:

8                 “(1) Performs basic nursing services as defined in subdivision (a);

9                 “(2) Administers medications;

10                “(3) Applies communication skills for the purpose of patient/client care and  
11 education; and

12                “(4) Contributes to the development and implementation of a teaching plan related to  
13 self-care for the patient/client.”

14          10.    California Code of Regulations, title 16, section 2576.6 states:

15          “(a) A licensed psychiatric technician shall safeguard patients’/clients’ health and safety by  
16 actions that include but are not limited to the following:

17                 “(1) Reporting to the Board acts specified in Section 4521 of the Business and  
18 Professions Code;

19                 “(2) Documenting patient/client care in accordance with standards of the profession;  
20 and

21                 “(3) Performing services in accordance with Section 125.6 of the Business and  
22 Professions Code.

23          “(b) A licensed psychiatric technician shall adhere to standards of the profession and shall  
24 incorporate ethical and behavioral standards of professional practice which include but are not  
25 limited to the following:

26                 “(1) Maintaining current knowledge and skills for safe and competent practice;

27                 “(2) Maintaining patient/client confidentiality;

28                 “(4) Abstaining from chemical/substance abuse; and

1 “(5) Cooperating with the Board during investigations as required by Section 4521.2  
2 of the Business and Professions Code.

3 “(c) A violation of this section constitutes unprofessional conduct for purposes of initiating  
4 disciplinary action.”

5 COST RECOVERY

6 11. Code section 125.3 provides, in pertinent part, that a Board may request the  
7 administrative law judge to direct a licensee found to have committed a violation or violations of  
8 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
9 enforcement of the case.

10 FACTUAL BACKGROUND

11 12. On or about October 16, 2008, while employed on a probationary basis as a  
12 psychiatric technician at Napa State Hospital in Napa, California, Respondent was assigned to  
13 dispense medication during the evening shift. Respondent turned his back on the medication cart  
14 for approximately one minute in the presence of a patient at risk for self-harm in order to  
15 accommodate the patient's request for tap water.

16 13. In the aftermath of this incident, Respondent was referred to nursing education for  
17 one-to-one remedial training in medication administration. Respondent failed repeated attempts  
18 by his nursing instructors to train him and increase his understanding of the importance of proper  
19 medication administration. Respondent was determined incompetent to pass medication.

20 14. Effective April 15, 2009, Respondent was rejected during probation from his position  
21 at Napa State Hospital, having received an overall rating of “unacceptable” on his second  
22 probationary performance report.

23 FIRST CAUSE FOR DISCIPLINE

24 (Gross Negligence and/or Incompetence)

25 15. Respondent is subject to disciplinary action under Code section 4521, subdivision  
26 (a)(1), for gross negligence and/or incompetence as described in paragraph 12, above.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Incompetence)

3 16. Respondent is subject to disciplinary action under Code section 4521, subdivision  
4 (a)(1), for incompetence as described in paragraph 13, above.

5 THIRD CAUSE FOR DISCIPLINE

6 (Unprofessional Conduct)

7 17. Respondent is subject to disciplinary action under Code section 4521, subdivision (a),  
8 and/or California Code of Regulations, title 16, sections 2576.5 and/or 2576.6, in that he  
9 conducted himself unprofessionally, as described in paragraphs 12-14, above.

10 PRAYER

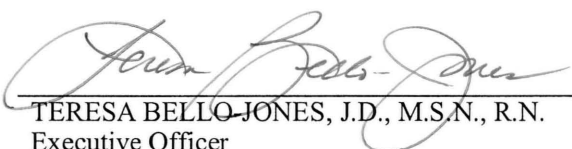
11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
12 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians  
13 issue a decision:

14 1. Revoking or suspending Psychiatric Technician License Number PT 29485 issued to  
15 Deogracias L. Casteneda;

16 2. Ordering Deogracias L. Casteneda to pay the Board of Vocational Nursing and  
17 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,  
18 pursuant to Business and Professions Code section 125.3;

19 3. Taking such other and further action as deemed necessary and proper.

20  
21 DATED: June 27, 2011

22   
TERESA BELLO-JONES, J.D., M.S.N., R.N.  
Executive Officer  
Board of Vocational Nursing and Psychiatric Technicians  
Department of Consumer Affairs  
State of California  
Complainant

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